

720 PORTABLE FUEL CONTAINERS AND SPOUTS

720.1 Except as provided in subsection 720.7, the requirements of this section apply to any person who sells, supplies, offers for sale, manufactures, or uses portable fuel container(s) or spout(s) or both portable fuel container(s) and spout(s) in the District of Columbia.

720.2 Except as provided in subsection 720.7, no person shall sell, supply, offer for sale, or manufacture for sale in the District of Columbia on or after November 15, 2003, any portable fuel container(s) or spout(s) or both portable fuel container(s) and spout(s) which, at the time of sale or manufacture, does not meet all of the following Performance Standards for Spill-Proof systems:

- (a) Has an automatic shut-off that stops the fuel flow before the target fuel tank overflows;
- (b) Automatically closes and seals when removed from the target fuel tank and remains completely closed when not dispensing fuel;
- (c) Has only one opening for both filling and pouring; and
- (d) Provides a fuel flow rate and fill level of:
 - (1) not less than one-half gallon per minute for portable fuel containers with a nominal capacity of:
 - (A) less than or equal to 1.5 gallons and fills to a level less than or equal to one (1) inch below the top of the target fuel tank opening; or
 - (B) greater than 1.5 gallons but less than or equal to 2.5 gallons and fills to a level less than or equal to one (1) inch below the top of the target fuel tank opening if the spill-proof system clearly displays the phrase “Low Flow Rate” in type of thirty-four (34) point or greater on each spill-proof system or label affixed thereto, and on the accompanying package, if any; or
 - (2) not less than one (1) gallon per minute for portable fuel containers with a nominal capacity greater than 1.5 gallons but less than or equal to 2.5 gallons and fills to a level less than or equal to 1.25 inches below the top of the target fuel tank opening; or
 - (3) not less than two (2) gallons per minute for portable fuel

containers with a nominal capacity greater than 2.5 gallons;

- (e) Does not exceed a permeation rate of 0.4 grams per gallon per day; and
- (f) Is warranted by the manufacturer for a period of not less than one (1) year against defects in materials and workmanship.

720.3 Except as provided in subsection 720.7, no person shall sell, supply, offer for sale, or manufacture for sale in the District of Columbia on or after November 15, 2003, any spout which, at the time of sale or manufacture, does not meet all of the following Performance Standards for Spill-Proof Spouts:

- (a) Has an automatic shut-off that stops the fuel flow before the target fuel tank overflows;
- (b) Automatically closes and seals when removed from the target fuel tank and remains completely closed when not dispensing fuel;
- (c) Provides a fuel flow rate and fill level of:
 - (1) not less than one-half gallon per minute for portable fuel containers with a nominal capacity of:
 - (A) less than or equal to 1.5 gallons and fills to a level less than or equal to one (1) inch below the top of the target fuel tank opening; or
 - (B) greater than 1.5 gallons but less than or equal to 2.5 gallons and fills to a level less than or equal to one (1) inch below the top of the target fuel tank opening if the spill-proof spout clearly displays the phrase "Low Flow Rate" in type of thirty-four (34) point or greater on the accompanying package, or for spill-proof spouts sold without packaging, on either the spill-proof spout or a label affixed thereto; or
 - (2) not less than one (1) gallon per minute for portable fuel containers with a nominal capacity greater than 1.5 gallons but less than or equal to 2.5 gallons and fills to a level less than or equal to 1.25 inches below the top of the target fuel tank opening; or
 - (3) not less than two (2) gallons per minute for portable fuel containers with a nominal capacity greater than 2.5 gallons;
- (d) Is warranted by the manufacturer for a period of not less than one (1)

year against defects in materials and workmanship.

- 720.4 The test procedures for determining compliance with the performance standards in this Section are set forth in subsections 720.21 through 720.24. The manufacturer of portable fuel containers or spouts or both portable fuel containers and spouts must perform the tests for determining compliance as set forth in subsections 720.21 through 720.24 to show that their product meets the performance standards of this Section prior to allowing the product to be offered for sale in the District of Columbia. The manufacturer must maintain records of these compliance tests for as long as the product is available for sale in the District of Columbia and make those test results available to the District of Columbia within sixty (60) days of request.
- 720.5 Compliance with the Performance Standards in this Section does not exempt spill-proof systems or spill-proof spouts from compliance with other applicable Federal and District statutes and regulations such as District fire codes, safety codes, and other safety regulations.
- 720.6 Notwithstanding the provisions of subsections 720.2 and 720.3, a portable fuel container or spout or both portable fuel container and spout manufactured before November 15, 2003, may be sold, supplied, or offered for sale until November 15, 2003, if the date of manufacture or a date code representing the date of manufacture is clearly displayed on the portable fuel container or spout.
- 720.7 The following exemptions shall apply:
- (a) This Section does not apply to any portable fuel container or spout or both portable fuel container and spout manufactured in the District of Columbia for shipment, sale, and use outside of the District of Columbia;
 - (b) This Section does not apply to a manufacturer or distributor who sells, supplies, or offers for sale in the District of Columbia a portable fuel container or spout or both portable fuel container and spout that does not comply with the Performance Standards specified in subsections 720.2 and 720.3, as long as the manufacturer or distributor can demonstrate that:
 - (1) the portable fuel container or spout or both portable fuel container and spout is intended for shipment and use outside of the District of Columbia; and
 - (2) the manufacturer or distributor has taken reasonable prudent precautions to assure that the portable fuel container or spout or both portable fuel container and spout is not distributed to the District of Columbia;

- (c) Subsection (b) above does not apply to portable fuel containers or spouts or both portable fuel containers and spouts that are sold, supplied, or offered for sale by any person to retail outlets in the District of Columbia;
- (d) This Section does not apply to safety cans meeting the requirements of Chapter 17, Title 29, Part 1926 Subpart F of the Code of Federal Regulations;
- (e) This Section does not apply to portable fuel containers with a nominal capacity less than or equal to one (1) quart;
- (f) This Section does not apply to rapid refueling devices with nominal capacities greater than or equal to four (4) gallons, provided such devices are designed for use in officially sanctioned off-highway motorcycle competitions or either create a leak-proof seal against a stock target fuel tank or are designed to operate in conjunction with a receiver permanently installed on the target fuel tank; and
- (g) This Section does not apply to portable fuel tanks manufactured specifically to deliver fuel through a hose attached between the portable fuel tank and the outboard engine for the purpose of operating the outboard engine.

720.8 Innovative Products may be exempt under the following circumstances:

- (a) Consumer products which have been granted an exemption by the California Air Resources Board (CARB) Consumer Product Regulation, under the Innovative Products provisions in Subchapter 8.5, Article 2, §94511, or Subchapter 8.5, Article 1, §94503.5 of Title 17 of the California Code of Regulations shall be exempt from the provisions in subsection 720.2 for the period of time that the CARB Innovative Products exemption remains in effect. Any manufacturer claiming such an exemption on this basis must submit to the appropriate District of Columbia agency, upon request, a copy of the CARB exemption decision (i.e., the Executive Order), including all conditions established by CARB applicable to the exemption;
- (b) The District of Columbia may also exempt a portable fuel container or spout or both portable fuel container and spout from one (1) or more of the requirements of subsections 720.2 through 720.6 if a manufacturer demonstrates by clear and convincing evidence that, due to the product's design, delivery system, or other factors, the use of the product will result in cumulative VOC emissions below the highest emitting representative spill-proof system or representative spill-proof spout in its

product category as determined from applicable testing;

- (1) For the purposes of this Section, “representative spill-proof system” or a “representative spill-proof spout” means a portable fuel container or spout or both portable fuel container and spout which, at the time of exemption, meets the Performance Standards specified in subsections 720.2 and 720.3;
- (2) A manufacturer (applicant) must apply in writing to the District for an innovative product exemption claimed under subsection 720.8. The application must include the supporting documentation that quantifies the emissions from the innovative product, including the actual physical test methods used to generate the data. In addition, the applicant must provide any information necessary to enable the District to establish enforceable conditions for granting the exemption. All information including proprietary data submitted by a manufacturer pursuant to this Section shall be handled in accordance with the procedures specified in the applicable District of Columbia confidentiality requirements;
- (3) Within thirty (30) days of receipt of the exemption application the District shall determine whether an application is complete as provided in the applicable District of Columbia laws or regulations;
- (4) Within ninety (90) days after an application has been deemed complete, the District will determine whether, under what conditions, and to what extent, an exemption from the requirements of subsections 720.2 through 720.6 will be permitted. The applicant and the District may mutually agree to a longer time period for reaching a decision. An applicant may submit additional supporting documentation before a decision has been reached. The District will notify the applicant of the decision in writing and specify such terms and conditions that are necessary to ensure that emissions from use of the product will meet the performance standards specified in subsections 720.2 and 720.3, and that such emissions reductions can be enforced;
- (5) In granting an innovative product exemption for a portable fuel container or spout or both portable fuel container and spout, the District of Columbia shall specify the test methods for determining conformance to the conditions established. The test methods may include criteria for reproducibility, accuracy, and sampling and laboratory procedures;

- (6) For any portable fuel container or spout or both portable fuel container and spout for which an innovative product exemption has been granted pursuant to this Section, the manufacturer shall notify the District of Columbia in writing at least thirty (30) days before the manufacturer changes a product's design, delivery system, or other factors that may effect the VOC emissions during recommended usage. The manufacturer must also notify the District of Columbia within thirty (30) days after the manufacturer learns of any information that would alter the emissions estimates submitted to the District of Columbia in support of the exemption application;
- (7) If the Performance Standards specified in subsections 720.2 and 720.3 are amended for a product category, all innovative product exemptions granted for products in the product category, except as provided in this subsection, have no force and effect as of the effective date of the amended Performance Standards; and
- (8) If the District of Columbia believes that a portable fuel container or spout or both portable fuel container and spout for which an exemption has been granted no longer meets the criteria for an innovative product specified in this Section, the District of Columbia may hold a public hearing in accordance with the procedures specified in applicable District of Columbia laws or regulations, to determine if the exemption should be modified or revoked.

720.9 Each manufacturer of a portable fuel container or portable fuel container and spout subject to and complying with subsection 720.2 must clearly display on each spill-proof system:

- (a) the phrase "Spill-Proof System";
- (b) a date of manufacture or representative date; and
- (c) a representative code identifying the portable fuel container or portable fuel container and spout as subject to and complying with subsection 720.2.

720.10 Each manufacturer of a spout subject to and complying with subsection 720.3 must clearly display on the accompanying package, or for spill-proof spouts sold without packaging, on either the spill-proof spout or a label affixed thereto:

- (a) the phrase "Spill-Proof Spout";
- (b) a date of manufacture or representative date; and

- (c) a representative code identifying the spout as subject to and complying with subsection 720.3.

720.11 Each manufacturer subject to subsections 720.9 and 720.10 must file an explanation of both the date code and representative code with the District of Columbia no later than three (3) months after the effective date of this regulation or within three (3) months of production, and within three (3) months after any change in coding.

720.12 Each manufacturer subject to subsections 720.9 and 720.10 must clearly display a fuel flow rate on each spill-proof system or spill-proof spout, or label affixed thereto, and on any accompanying package.

720.13 Each manufacturer of a spout subject to subsection 720.10 must clearly display the make, model number, and size of only those portable fuel container(s) the spout is designed to accommodate and can demonstrate compliance with subsection 720.2 on the accompanying package, or for spill-proof spouts sold without packaging, on either the spill-proof spout, or a label affixed thereto.

720.14 Manufacturers of portable fuel containers or portable fuel containers and spouts not subject to or not in compliance with subsections 720.2 through 720.6 may not display the phrase “Spill-Proof System” or “Spill-Proof Spout” on the portable fuel container or spout, respectively, on any sticker or label affixed thereto, or on any accompanying package.

720.15 Each manufacturer of a portable fuel container or spout or both portable fuel container and spout subject to and complying with subsections 720.2 through 720.6 that due to its design or other features cannot be used to refuel one (1) or more on-road motor vehicles must clearly display the phrase “Not Intended For Refueling On-Road Motor Vehicles” in type of thirty-four (34) point or greater on each of the following:

- (a) For a portable fuel container or portable fuel container and spouts sold together as a spill-proof system, on the system or on a label affixed thereto, and on the accompanying package, if any; and
- (b) For a spill-proof spout sold separately from a spill-proof system, on either the spill-proof spout, or a label affixed thereto, and on the accompanying package, if any.

720.16 Any person or manufacturer who cannot comply with the requirements set forth in subsection 720.2 through 720.6, due to extraordinary reasons beyond the person’s reasonable control, may apply in writing to the District of Columbia for a variance. The variance application must set forth:

- (a) the specific grounds upon which the variance is sought;
- (b) the proposed date(s) by which compliance with the provisions of subsections 720.2 through 720.6 will be achieved; and
- (c) a compliance report detailing the method(s) by which compliance will be achieved.

720.17 No variance may be granted unless all of the following findings are made:

- (a) that due to reasons beyond the reasonable control of the applicant, required compliance with subsections 720.2 through 720.6 would result in extraordinary economic hardship;
- (b) that the public interest in mitigating the extraordinary hardship to the applicant by issuing the variance outweighs the public interest in avoiding any increased emissions of air contaminants that would result from issuing the variance; and
- (c) that the compliance report proposed by the applicant can reasonably be implemented, and will achieve compliance as expeditiously as possible.

720.18 Any approval of a variance shall specify a final compliance date by which compliance with the requirements of subsections 720.2 through 720.6 will be achieved. Any approval of a variance shall contain a condition that specifies increments of progress necessary to assure timely compliance, and such other conditions that the District of Columbia, in consideration of the testimony received at the hearing, finds necessary to carry out the purposes of this regulation.

720.19 A variance shall cease to be effective upon failure of the party to whom the variance was granted to comply with any term or condition of the variance.

720.20 Upon the application of any person, the District of Columbia may review, and for good cause, modify or revoke a variance from requirements of subsections 720.2 through 720.6 after holding a public hearing in accordance with the provisions of subsection 720.17.

720.21 Testing to determine compliance with subsection 720.3 of this article shall be performed by using the following test procedures:

- (a) “Test Method 510, Automatic Shut-Off Test Procedure For Spill-Proof Systems And Spill-Proof Spouts,” adopted by CARB on July 6, 2000, which is incorporated by reference herein;
- (b) “Test Method 511, Automatic Closure Test Procedure For Spill-Proof

Systems And Spill-Proof Spouts,” adopted by CARB on July 6, 2000,
which is incorporated by reference herein; and

- (c) “Test Method 512, Determination Of Fuel Flow Rate For Spill-Proof Systems and Spill-Proof Spouts,” adopted by CARB on July 6, 2000,
which is incorporated by reference herein.

720.22 Testing to determine compliance with subsection 720.2 of this article shall be performed by using all test procedures in subsection 720.16 above and the following test procedure:

- (a) “Test Method 513, Determination Of Permeation Rate For Spill-Proof Systems,” adopted by CARB on July 6, 2000, which is incorporated by reference herein.

720.23 Test procedures referred to in subsections 720.21 and 720.22 are described in Appendix A.

720.24 Alternative testing methods that are shown to be accurate, precise, and appropriate may be used upon written approval of the District of Columbia.

720.25 Each part of section 720 is severable, and in the event that any part of this article is held to be invalid, the remainder of this article continues in full force and effect.